IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.2/1999

The New India Assurance Co.Ltd.,
Vehlo Building, 3rd Floor,
Panaji, Goa. .... Appellant.

V/s.

1. Assuciana Aleixo Fernandes
wife of Alexio Fernandes,
resident of Betim, Velham
Bhast, Goa Velha, Ilhas, Goa.

2. Shri Mohandas V. Naik,
Near Dhankankar's Hospital,
Redhabhat, Pilar, Ilhas, Goa.

3. Shri Innacio Anton Fernandes,
St. Lourence, Agacaim.

4. Shri Devidas Atmaram Mandrekar,
R/o. House No.1073,
Madhalem Bhat, Siolim, Barez, Goa.

5. Shri Kashinath Bablo Naik,
Near Porvorim Bazar,
Povorim, Bardez, Goa.

6. United India Insurance Co.Ltd.,
Near Dena Bank, Opp. Hotel Bardez,
Mapusa, Bardez, Goa. .... Respondents.

Mr. E. Afonso, Advocate for the appellant.

Mr. M.S. Joshi, Advocate for respondent No.1.

CORAM : F.I. REBELLO, J.

DATE : JULY 10, 2003.

ORAL JUDGMENT :

The record shows that the appeal as against respondents No.1, 3 and 5 was dismissed, as per the Order of the Addl. Registrar dated 25.11.1999. Having heard the parties, by consent, the said order is set aside. The appeal against the said respondents is restored.

Heard the parties. The Insurance Company has preferred the appeal basically on the counts, firstly that the driver of the vehicle did not have a valid driving licence and secondly, that the claimant/ respondent No.1 would not be liable to be compensated by the appellant as she would not be covered by the policy.

2. I have considered the documents on record. From the record it emerges that the Claims Tribunal has awarded a sum of Rs. 39,555/- with interest at the rate of 12 % per annum on a sum of Rs.27,555/- from 8.11.1993 till payment. Respondent No.1 was also paid a sum of Rs.12,000/- in Misc. Claim Petition No.185/93. The issue involves an injury suffered by the claimant, who would be about 68 years. The Insurance Company has deposited in this Court a sum of Rs.25,000/-, apart from the sum of Rs.12,000/- already paid. In my opinion, therefore, considering the facts and circumstances, without going into the legal objections raised by the Insurance Company, the ends of justice would be met by

the following Order :

The amount as awarded is reduced to the sum of Rs.37,000/-, including the sum of Rs.12,000/- already paid. The sum of Rs.25,000/- has already been deposited in this Court, which has been invested thereon. The amount as invested along with the accrued interest to be paid to respondent No.1 in satisfaction of the entire claim.

The Award dated 30.6.1998, accordingly, stands modified. The Registry is directed to make payment to respondent No.1 of the sum of Rs.25,000/- along with the accrued interest. In the circumstances of the case, there shall be no order as to costs. The appeal stands disposed of accordingly.

F.I. REBELLO, J.

ssm.